

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DREW LEE and FELIX LUFKIN,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

HDR GLOBAL TRADING LIMITED, ABS  
GLOBAL TRADING LIMITED, 100X  
HOLDINGS LIMITED, SHINE EFFORT  
INC LIMITED, HDR GLOBAL SERVICES  
(BERMUDA), ARTHUR HAYES, BEN  
DELO, GREG DWYER, and SAMUEL  
REED,

Defendants.

Case No. 1:20-cv-03232 (ALC) (SDA)

**JOINT STIPULATION AND [PROPOSED] ORDER**

WHEREAS, the above-captioned action commenced on April 23, 2020 (Dkt. 1);

WHEREAS, the First Amended Complaint in the above-captioned action was filed on February 12, 2021 (Dkt. 53);

WHEREAS, Defendants moved to dismiss the Amended Complaint on April 13, 2021 (Dkt. 63);

WHEREAS, the Second Amended Complaint in the above-captioned action was filed on March 21, 2023 (Dkt. 115);

WHEREAS, Defendants moved to dismiss the Second Amended Complaint on May 2, 2023 (Dkt. 120);

WHEREAS, the Court denied Defendants' motion to dismiss on March 31, 2024 (Dkt. 143; *see also* Dkts. 145, 147);

WHEREAS, Defendants filed Answers to the Second Amended Complaint on May 15, 2024 (Dkts. 169–73);

WHEREAS, Plaintiffs filed the Third Amended Complaint on October 7, 2024 (Dkt. 214);

WHEREAS, Defendants filed Answers to the Third Amended Complaint on November 6, 2024 (Dkts. 216–20);

WHEREAS, Plaintiffs on November 19, 2024 filed with the Court a letter requesting a pre-motion conference concerning Plaintiffs’ proposed motion (the “Proposed Motion”) to strike certain affirmative defenses in Defendants’ Answers to the Third Amended Complaint concerning arbitration and *forum non conveniens* (Dkt. 225);

WHEREAS, Defendants filed with the Court a letter in opposition to Plaintiffs’ November 19, 2024 pre-motion letter (Dkt. 226);

WHEREAS, the Court has scheduled a pre-motion conference concerning the Proposed Motion for December 10, 2024 (Dkt. 228); and

WHEREAS, counsel for the parties have met and conferred in a further attempt to resolve their dispute over the Proposed Motion without the need for judicial intervention;

**NOW, THEREFORE, IT IS HEREBY STIPULATED TO AND AGREED**, by and between the undersigned counsel for the parties, subject to the Court’s approval, as stated below. In the event that the Court does not approve this Joint Stipulation and [Proposed] Order in its entirety, the parties’ stipulation shall be null and void and of no effect.

1. Plaintiffs withdraw their request to file the Proposed Motion.
2. None of Defendants or their affiliates shall invoke in the above-captioned action the choice of law, forum/jurisdictional selection, and arbitration provisions of Article 30 of the BitMEX Terms of Service effective November 1, 2021, or the forum/jurisdictional selection and

arbitration provisions (and any choice of law provision to the extent it governs any such provisions) in any subsequent Terms of Service, with respect to any transaction placed on BitMEX on or before October 31, 2021, including as to any claims by any current named plaintiff or absent class member. For the avoidance of doubt, to the extent that any current named plaintiff or absent class member engaged in transactions on BitMEX both (i) on or before October 31, 2021 and (ii) on or after November 1, 2021, Defendants shall not invoke the choice of law, forum/jurisdictional selection, and arbitration provisions of Article 30 of the BitMEX Terms of Service effective November 1, 2021, or the forum/jurisdictional selection and arbitration provisions (and any choice of law provision to the extent it governs any such provisions) in any subsequent Terms of Service, with respect to any such person's claims regarding transactions on or before October 31, 2021, and shall not seek to compel arbitration or have this action dismissed or stayed on such basis.

3. Notwithstanding the foregoing, Defendants do not waive, and expressly reserve, (i) any defenses, arguments or positions not derived from the choice of law, forum/jurisdictional selection, and arbitration provisions of Article 30 of the BitMEX Terms of Service effective November 1, 2021 or the forum/jurisdictional selection and arbitration provisions (and any choice of law provision to the extent it governs any such provisions) in any subsequent Terms of Service, including with respect to any motion for class certification under Rule 23, motion for summary judgment or trial and (ii) any standalone *forum non conveniens* defense pleaded by Defendants in their respective Answers to the extent not derived from the choice of law, forum/jurisdictional selection, and arbitration provisions of Article 30 of the BitMEX Terms of Service effective November 1, 2021 or the forum/jurisdictional selection and arbitration provisions (and any choice of law provision to the extent it governs any such provisions) in any subsequent Terms of Service.

Date: December 6, 2024

Respectfully submitted,

s/ Jordan A. Goldstein

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*Attorneys for Defendant Greg Dwyer*

SO ORDERED.

Dated: New York, New York

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ANDREW L. CARTER JR.  
United States District Judge